

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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Susan Doxtator, Arlie Doxtator and  
Sarah Wunderlich, as Special  
Administrators of the Estate of  
Jonathon C. Tubby,

Plaintiffs,

Case No. 19-CV-137

vs.

Erik O'Brien, Andrew Smith,  
Todd J. Delain, Heidi Michel,  
City of Green Bay, Brown County,  
Joseph P. Mleziva, Nathan K.  
Winisterfer, Thomas Zeigle,  
Bradley A. Dernbach and John Does 1-5,

Defendants.

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**DECLARATION OF JASMYNE M. BAYNARD**

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STATE OF WISCONSIN     )  
                                      ) ss  
MILWAUKEE COUNTY     )

Jasmyne M. Baynard, being first duly sworn under oath, declares and states as follows:

1. My name is Jasmyne M. Baynard. I am an attorney licensed to practice law in the State of Wisconsin and am an attorney with Gunta Law Offices, S.C., which represents Defendants Erik O'Brien, Andrew Smith and the City of Green Bay in this lawsuit. I make this Declaration based upon my personal knowledge and in support of Defendants Erik O'Brien, Andrew Smith and City of Green Bay's Motion for Summary Judgment.

2. Attached as **Baynard Declaration Exhibit A** is a true and accurate copy of the transcript from the deposition of Erik O'Brien taken on December 19, 2019.

3. Attached as **Baynard Declaration Exhibit B** is a true and accurate copy of the transcript from the deposition of Andrew Smith taken on August 4, 2020.

4. Attached as **Baynard Declaration Exhibit C** is a true and accurate copy of Squad 42 exterior video, provided by the Wisconsin Department of Justice, Division of Criminal Investigation, Case No. 18-7807: Green Bay OID - Jonathon Tubby, Related Digital Records for Public Release.

5. Attached as **Baynard Declaration Exhibit D** is a true and accurate copy of the transcript from the deposition of Colton Wernecke taken on December 18, 2019.

6. Attached as **Baynard Declaration Exhibit E** is a true and accurate copy of the transcript from the deposition of Teresa Rodriguez taken on July 8, 2020.

7. Attached as **Baynard Declaration Exhibit F** is a true and accurate copy of Squad 42 interior video, provided by the Wisconsin Department of Justice, Division of Criminal Investigation, Case No. 18-7807: Green Bay OID - Jonathon Tubby, Related Digital Records for Public Release.

8. Attached as **Baynard Declaration Exhibit G** is a true and accurate copy of Exhibit 5 to the deposition of Charles Nelson taken on June 12, 2020, a sally port diagram.

9. Attached as **Baynard Declaration Exhibit H** is a true and accurate copy of the transcript from the deposition of Logan Rose taken on June 9, 2020.

10. Attached as **Baynard Declaration Exhibit I** is a true and accurate copy of Squad 53 video, provided by the Wisconsin Department of Justice, Division of Criminal Investigation, Case No. 18-7807: Green Bay OID - Jonathon Tubby, Related Digital Records for Public Release.

11. Attached as **Baynard Declaration Exhibit J** is a true and accurate copy of exhibit 3 to the deposition of Colton Wernecke taken on December 18, 2019, a video taken from outside of the sally port on October 19, 2018.

12. Attached as **Baynard Declaration Exhibit K** is a true and accurate copy of the transcript from the deposition of Thomas Zeigle taken on January 10, 2020.

13. Attached as **Baynard Declaration Exhibit L** is a true and accurate copy of the transcript from the deposition of Nathan Allen taken on January 9, 2020.

14. Attached as **Baynard Declaration Exhibit M** is a true and accurate copy of the transcript from the deposition of Eric Allen taken on January 9, 2020.

15. Attached as **Baynard Declaration Exhibit N** is a true and accurate copy of the transcript from the deposition of Scott Salzmman taken on December 20, 2019.

16. Attached as **Baynard Declaration Exhibit O** is a true and accurate copy of the transcript from the deposition of Jason Katers taken on June 9, 2020.

17. Attached as **Baynard Declaration Exhibit P** is a true and accurate copy of the transcript from the deposition of Thomas Denney taken on December 18, 2019.

18. Attached as **Baynard Declaration Exhibit Q** is a true and accurate copy of the transcript from the deposition of Joseph Mleziva taken on June 4, 2020.

19. Attached as **Baynard Declaration Exhibit R** is a true and accurate copy of the transcript from the deposition of Nathan Winistorfer taken on June 4, 2020.

20. Attached as **Baynard Declaration Exhibit S** is a true and accurate copy of the transcript from the deposition of Bradley Dernbach taken on January 10, 2020.

21. Attached as **Baynard Declaration Exhibit T** is a true and accurate copy of Exhibit 2 to the deposition of Jason Katers taken on June 9, 2020, the Brown County DA Report and Conclusions.

22. Attached as **Baynard Declaration Exhibit U** is a true and accurate copy of the transcript from the deposition of Vincent Tranchida taken on August 18, 2020.

23. Attached as **Baynard Declaration Exhibit V** is a true and accurate copy of Exhibit 3 to the deposition of Petra Schwab taken on August 18, 2020, the Brown County Medical Examiner's Report, which is filed under seal with the Court.

24. Attached as **Baynard Declaration Exhibit W** is a true and accurate copy of the transcript from the deposition of Mike Knetzger taken on July 10, 2020.

25. Attached as **Baynard Declaration Exhibit X** is a true and accurate copy of the transcript from the deposition of Kevin Warych taken on July 10, 2020.

26. Attached as **Baynard Declaration Exhibit Y** is a true and accurate copy of Exhibit 10 to the deposition of Kevin Warych taken on July 10, 2020, Use of Force Procedures from the Green Bay Police Department Policy Manual.

27. Attached as **Baynard Declaration Exhibit Z** is a true and accurate copy of Exhibit 11 to the deposition of Kevin Warych taken on July 10, 2020, Green Bay Police Department Policy No. 300 - Use of Force.

28. Attached as **Baynard Declaration Exhibit AA** is a true and accurate copy of Exhibit 9 to the deposition of Kevin Warych taken on July 10, 2020, Green Bay Police Department Policy No. 409 - Hostage and Barricade Incidents.

29. Attached as **Baynard Declaration Exhibit BB** is a true and accurate copy of Exhibit 23 to the deposition of Thomas Zeigle taken on January 10, 2020, Green Bay Police Department Operations Division Memorandum regarding County owned property, BCSO response to calls in the City of Green Bay.

30. Attached as **Baynard Declaration Exhibit CC** is a true and accurate copy of Exhibit 24 to the deposition of Thomas Zeigle taken on January 10, 2020, Green Bay Police Department Memorandum.

31. Attached as **Baynard Declaration Exhibit DD** is a true and accurate copy of Exhibit 6 to the deposition of Andrew Smith taken on August 4, 2020, an Internal Investigation - Use of Force Administration Investigation Case No. 17I-000005.

32. Attached as **Baynard Declaration Exhibit EE** is a true and accurate copy of Exhibit 7 to the deposition of Andrew Smith taken on August 4, 2020, an Internal Investigation - Public Recording of Law Enforcement Investigation Case No. 18-000001.

33. Attached as **Baynard Declaration Exhibit FF** is a true and accurate copy of Exhibit 8 to the deposition of Andrew Smith taken on August 4, 2020, Belanger Discipline Letter and Brester Discipline Letter.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 2nd day of November, 2020.

/s/ Jasmyne M. Baynard  
Jasmyne M. Baynard